Filed 2/17/05 Nelson v. Federal Ins. CA2/8

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

SHARON NELSON, Plaintiff and Appellant, v. FEDERAL INSURANCE COMPANY, Defendant and Respondent.	B171401 (Los Angeles County Super. Ct. No. BC281099)

APPEAL from a judgment of the Superior Court of Los Angeles County. Malcolm H. Mackey, Judge. Affirmed.

Riley & Reiner, Raymond L. Riley, Douglas D. Winter and Scott M. Radin for Plaintiff and Appellant.

Ropers, Majeski, Kohn & Bentley, Marta B. Arriandiaga and Kim Karelis for Defendant and Respondent.

Sharon Nelson aka Sharon Steffien (Nelson) appeals following summary judgment granted in favor of respondent Federal Insurance Company (FIC). She sued her former husband's insurers for bad faith and pursuant to Insurance Code section 11580, after recovering a judgment against her former husband for over $200,000 for negligent or reckless infliction of emotional distress and over $1 million in punitive damages.[1] The underlying lawsuit arose from the former husband's execution and forgery of Nelson's signature on trust deeds encumbering the family residence, which was quitclaimed to Nelson as her separate property. In the case at bench, Nelson sought the compensatory damages awarded to her in the underlying lawsuit, as well as punitive damages for FIC's alleged conduct.

Respondent contends that it had no duty to indemnify appellant's former husband Alvin Steffien (Steffien) against the judgment, comprised of damages respondent argues are not covered under its policies, and therefore Nelson as Steffien's judgment creditor is not entitled to have FIC satisfy the judgment. Appellant contends that special findings of fraud and malice in the underlying action do not necessarily defeat coverage where the jury found liability against the insured arising out of negligent and reckless conduct. According to Nelson, the record of the underlying action shows the jury considered just one cause of action, for negligent and reckless infliction of emotional distress, and such a cause of action cannot be characterized as one for willful conduct that would bar coverage. (*J. C. Penney Casualty Ins. Co. v. M. K*. (1991) 52 Cal.3d 1009, 1020-1021 [insurer not liable for insured's sexual molestation, a willful act under Insurance Code section 533].)[2] Moreover, Nelson argues that the imposition of punitive damages do not

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[1] For ease of reference, we shall refer to plaintiff and appellant as "Nelson" and her former husband as "Steffien." Unless otherwise indicated, all statutory references are to the Insurance Code.

[2] As our Supreme Court later explained in *Horace Mann Ins. Co. v. Barbara B.* (1993) 4 Cal.4th 1076, 1082, discussing the automatic statutory exclusion for willful acts in section 533: "Because child molestation is inherently harmful, [in *J. C. Penney*, *supra*,] we rejected the argument that a molester's lack of subjective intent to harm the

necessarily negate coverage. Concluding there was no "occurrence" under the policy definition and therefore no coverage, we shall affirm the summary judgment for FIC.

PROCEDURAL HISTORY

Underlying litigation

Nelson, suing as Sharon Steffien, filed her lawsuit against The Rock Island Bank (RIB), her former husband, and others in Orange County Superior Court Case No. 780547. The subject real property at the heart of the dispute had been granted by deed to both Nelson and Steffien in fee simple in 1990. The property was thereafter transmuted to Nelson by quitclaim deed dated December 4, 1995, and recorded in January 1996 so that plaintiff owned the property as her sole and separate property.

Prior to the transfer, Steffien allegedly executed deeds of trust, purportedly from himself and Nelson, to secure loans to himself for hundreds of thousands of dollars. Defendant RIB and Steffien allegedly were doing business together and RIB allegedly therefore did not take reasonable steps to assure the purported deeds were actually executed by plaintiff Nelson.

In 1997, a notice of default was recorded and, if the purported deeds were left outstanding, Nelson could lose her property. The First Amended Complaint (FAC) further alleged that Steffien forged Nelson's name to other documents as well and that the conduct of defendants "in procuring the forged deed was willful and was intended to injure Plaintiff and to deprive Plaintiff of the property purportedly conveyed by the Deeds of Trust." She therefore sought exemplary and punitive damages. The causes of action in her first amended complaint were for cancellation of deed; to quiet title to real property; temporary restraining order and preliminary injunction; notary public misconduct; and emotional distress. The fifth cause of action, apparently the only one

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victim can avoid the bar of Insurance Code section 533. We emphasized the narrowness of our holding, stressing we were addressing only child molestation and no other type of wrongdoing. [Citation.]"

submitted to the jury, repeated earlier allegations and added: "Defendants knew, or should have known, that their conduct as alleged herein would cause Plaintiff to suffer severe emotional distress and as a result of Defendant's conduct, Plaintiff has suffered severe emotional distress and physical suffering, including without limitation, severe anguish, anxiety, loss of confidence, headaches, stomach disorders, and loss of sleep causing Plaintiff to seek medical treatment, and damages . . . ."

Following the jury trial, judgment was entered for plaintiff Sharon Steffien and against Alvin Steffien with directions to return a general verdict with special findings. The judgment states that the jury was instructed on the fifth cause of action for "emotional distress" and returned a judgment for $225,000 with special findings that plaintiff had proved by clear and convincing evidence that defendant committed fraud and deceit against her, acted with malice toward her, but did not prove that defendant acted with oppression toward her. The jury then heard evidence regarding punitive damages and returned a general verdict of $1 million in punitive damages. Judgment for $1,225,000 plus interest was entered on June 6, 2002.

The current lawsuit

The pleadings

Sharon Nelson sued insurers and the agent that sold the policy for recovery under Insurance Code section 11580; breach of implied covenant of good faith and fair dealing; negligent infliction of emotional distress; and intentional infliction of emotional distress. The complaint alleged that the judgment obtained against Alvin T. Steffien (referred to as the "Insured") was "for emotional distress in the amount of $225,000, together with punitive damages of $1,000,000 . . . ."

Nelson alleged that Alvin Steffien was "acting as an officer and director of 'FSD, Inc.'," a named insured under comprehensive business liability insurance policy number 3576-97-57, which specifically named executive officers and directors as insured "but only with respect to their duties as your officers or directors." The policy allegedly provided for third party recovery on a judgment, with the exception that "we will not be

liable for damages that are not payable under the terms of this policy or that are in excess of the applicable Limits of Insurance." The third and fourth causes of action alleged that the insurer's actions in depriving Nelson of her property interest was "intentional and malicious and done for the purpose of causing Plaintiff to suffer humiliation, mental anguish, and emotional and physical distress." The fourth cause of action further alleged that defendants' actions "were intended to cause injury" or "was despicable conduct carried out . . . with a willful and conscious disregard" of Nelson's rights under the policy. Nelson sought $225,000 plus interest, along with general and special damages according to proof, and attorneys' fees and costs of suit.

The operative FAC dropped the insurance agent as a defendant and added the following allegations regarding the underlying action: The Insured testified he signed plaintiff's name to certain deeds of trust secured by her residence without her knowledge; that funds from the aforementioned deed transactions were used for working capital for FSD and to buy back fraudulent lease transactions presented by FSD, and therefore, the Insured was acting in his capacity as officer/director of FSD when he engaged in the aforementioned deed transactions; and that he believed he was entitled to sign her name without her consent in order to protect FSD.

Moreover, the FAC added allegations that testimony in the underlying action showed Nelson was "injured by way of the Insured's conduct in that she suffered severe insomnia, difficulties in functioning, heart palpitations preoccupation with certain aspects of her body, preoccupation with illness, anxiety, depression, agitation, confusion, panic attacks, as well as other physical manifestations."

A demurrer was overruled as to the first two causes of action but sustained without leave to amend as to the third and fourth causes of action. The court denied defendants' motion to strike, ruling Nelson was "entitled to recover punitive damages and attorney's fees."

Respondent's first amended answer alleged inter alia estoppel by facts adjudicated in other lawsuits and the bar of policy exclusions. "For example, Mr. Steffien was not

acting as an executive, officer, or director at the time of the incident, *Mr. Steffien's acts do not constitute an occurrence under the policy*, the damage alleged in the underlying action is not a bodily injury, the offense did not occur during policy period, liability is limited to designated premises, the injury was expected or intended, the alleged injury arose from intentional falsehoods, the alleged injury arose from prior acts, the alleged injury arose from willful violations, and failure to give notice of a potentially covered claim." (Italics added.)

FIC's motion for summary judgment (MSJ) and Nelson's response

FIC filed its MSJ based primarily on its contention that the section 11580 cause of action had no merit because there is no coverage for the judgment in the underlying lawsuit.[3] More specifically, FIC argued that the judgment is not comprised of damages caused by an "occurrence" under the policy but by the insured's intentional acts (*Chatton v. National Union Fire Ins. Co.* (1992) 10 Cal.App.4th 846, 861 ["well settled that intentional or fraudulent acts are deemed purposeful rather than accidental and, therefore, are not covered under a CGL policy" (*id.* at p. 861)]); the judgment is not comprised of damages that qualify as "bodily injury" ["the 'bodily injury' clause of a CGL policy does not cover claims resulting from mere emotional harm" (*id.* at p. 855)]; accord *Waller v. Truck Ins. Exchange, Inc.* (1995) 11 Cal.4th 1, 23 ["CGL policies do not provide coverage for economic losses that cause emotional distress"]); Alvin Steffien is not an insured under the policies in that he was sued in his individual capacity and was not acting in his capacity as an "officer or director" of any insured entity (*Milazo v. Gulf Ins.*

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[3] The lack of coverage is also part of the basis for contesting the bad faith cause of action and action for punitive damages. Moreover, because of the multiple genuine coverage issues, FIC contends its conduct was not "*unreasonabl[e]* or *without proper cause*," thereby precluding the bad faith cause of action. (*Chateau Chamberay Homeowners Assn. v. Associated Internat. Ins. Co.* (2001) 90 Cal.App.4th 335, 347; *Fraley v. Allstate Ins. Co.* (2000) 81 Cal.App.4th 1282, 1291-1292 [" '*bad faith liability cannot be imposed where there* "*exist[s] a genuine issue as to [the insurer's] liability under California law*"] [Citation.]' ".)

Co. (1990) 224 Cal.App.3d 1528, 1531-1532 [the CGL policy issued in *Milazo* "did not provide individual coverage for the partners, but only for their acts *as partners*"];[4] there is a policy exclusion for expected or intended injury (*J. C. Penney Casualty Ins. Co. v. M. K.*, *supra*, 52 Cal.3d 1009, 1020; Ins. Code § 533); and indemnification for punitive damages is prohibited by law (*J.B. Aguerre, Inc. v. American Guarantee & Liability. Ins. Co.* (1997) 59 Cal.App.4th 6, 14).[5]

FIC's MSJ relies on 12 facts that FIC asserts are undisputed. The first seven are undisputed by appellant and state that various specified general property and liability policies were issued by FIC to Fin. Solutions Designed, Inc., FSD, Inc., and FSD Properties, Inc. Those policies cover from August 31, 1995 to August 31, 2002. Also undisputed are certain policy provisions, including that coverage is for damages the insured becomes legally obligated to pay for "bodily injury or property damage to which this insurance applies *caused by an occurrence*." "Occurrence" is defined as "*an accident*, including continuous or repeated exposure to substantially the same general harmful conditions." (Italics added.)

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[4] The *Milazo* case, *supra*, 224 Cal.App.3d 1528, was distinguished in *Barnett v. Fireman's Fund Ins. Co.* (2001) 90 Cal.App.4th 500, 513, a case involving duty to defend as well as to indemnify: "First, unlike the insuring language that the *Milazo* court construed as providing coverage for only derivative liability, the insuring language of the CGL policy does not appear to condition coverage for executive officers on the requirement that the corporation have direct liability for their misconduct. Second, and more importantly, the *Milazo* court evaluated the duty to indemnify after a trial that established the additional insured's misconduct was necessarily committed in his individual capacity. In contrast, Fireman's duty to defend is tested by whether there was any potential that Barnett's and G. Mayer's alleged conduct was committed with respect to their duties as executive officers. . . . Because the complaint alleges [the executive officers] were seeking to further the corporate interests when they criticized MedPartners [the named insured], it is possible they were engaged with respect to their duties as executive officers when they committed the alleged misconduct and therefore a potential for coverage exists." (Footnote and citation deleted.)

[5] Nelson concedes that the punitive damages awarded in the underlying judgment are not recoverable in her lawsuit against FIC.

FIC's facts 9 through 12 are to some degree disputed by Nelson. "Undisputed" fact 9 states "This lawsuit arises from a lawsuit captioned Sharon Steffien v. The Rock Island Bank, N.A. et al., Orange County Superior Court Case No. 780547 (the 'underlying lawsuit'). Appellant disputed the fact "as stated" and replied: "This action is based on FIC's obligation under the General Liability Policy to cover the judgment against FIC's insured, Alvin T. Steffien, issued in the underlying lawsuit . . . ."

"Undisputed" fact 10 sets forth the named defendants in the underlying lawsuit and the causes of action alleged, cancellation of deed, quiet title, temporary restraining order and preliminary injunction, notary public misconduct (solely against defendant Barbara Rock), and emotional distress. "Undisputed" fact 11 states "The underlying lawsuit arises exclusively from [Nelson's] allegations that her husband Alvin Steffien forged her signature on Trust Deeds regarding the family residence, thereby wrongfully encumbering that real property which had been transmuted to her as her own separate property." FIC then set forth in "undisputed" fact 12 the judgment in the underlying lawsuit, set forth above.[6]

The opposition to MSJ was based on FIC's alleged failure to establish lack of coverage under its policy of insurance. Nelson argues the conduct in the underlying action, even though based on Steffien's use of her signature on documents, need not be characterized solely as arising out of fraud and deceit in that the "record of the underlying action shows that the jury considered just one cause of action, one for negligent and reckless infliction" of emotional distress as a result of Steffien's signing the documents with her name and that the jury returned a verdict finding Steffien liable for reckless

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[6] Nelson stated fact 10 was undisputed "but incomplete," asserting that the titles of the causes of action and the defendants named "are not determinative. What matters is the evidence at trial and the resulting judgment." As to facts 10, 11 and 12, Nelson argued that "The trial court found that the underlying lawsuit arose from [Nelson's] cause of action for negligent and reckless infliction of emotional distress. The occurrence arose from Mr. Steffien's business dealings with Rock Island Bank ('RIB') thereby causing physical and emotional injuries. . . . "

infliction of emotional distress. Moreover, FIC produced no evidence that Steffien was not an officer or director of FSD, and plaintiff produced "trial testimony [establishing] that the deeds of trust were signed to benefit FSD." In addition, Nelson claims the record demonstrates she suffered "both physical and emotional injury from the underlying deed transaction."

Nelson's additional facts in opposition to the MSJ set forth the relationship between Steffien and RIB; evidence in the underlying trial from Nelson's psychiatrist regarding her injuries; Steffien's reasons for obtaining the bank loans; and the trial court's instructions on "reckless infliction of emotional distress."[7] The opposition contains small portions of the reporter's transcript from the underlying lawsuit.

Hearing on the MSJ

A hearing on FIC's MSJ was held September 29, 2003. The trial court in the case at bench characterized the underlying lawsuit as one based on Steffien's forgery of Nelson's signature. The court determined that the resulting judgment in the underlying lawsuit, which included punitive damages, was not covered under the relevant policies, which defined "occurrence" as an "accident, including continuous or repeated exposure to the same general harmful conditions." Moreover, the jury found Steffien acted with malice, fraud, and deceit towards Nelson, precluding any determination that his conduct was accidental.

Nelson argued that although the underlying action was initially brought as an intentional conduct case, the trial court in the underlying action found it was a negligent and reckless case, not intentional conduct, and refused an instruction on intentional

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[7] In her additional fact 10, Nelson stated "The trial court in the underlying action expressly rejected jury instructions for intentional conduct. Further, the trial court expressly rejected jury instructions for fraud and deceit." The cited support for that "fact" deals with BAJI 15.21 (trial court's comments on the evidence.) The trial court stated "You are inviting me to comment on the quality of evidence that you have put in. Why would you want a jury trial, if you want me to comment on the evidence?" That instruction was not given, the court stating it was "withdrawn" at counsel's request.

conduct. Furthermore, recognizing the jury found Steffien had acted fraudulently and with malice, Nelson contended that punitive damages did not preclude the compensatory damages based on reckless conduct, which would be covered under the FIC policy.

FIC argued that if a person intentionally forges a trust deed and then recklessly causes someone emotional distress, "it all flows from the intentional act [which is] not covered." Especially where there was only one cause of action sent to the jury, and the jury found fraud and deceit, there cannot be coverage.

Summary judgment was granted.[8] Judgment was entered for FIC and this appeal follows.

CONTENTIONS ON APPEAL

Appellant Nelson contends the trial court erred in granting summary judgment based on the findings of fraud and malice in the underlying action in that FIC had the burden of conclusively establishing the applicability of the exclusion; the underlying judgment of reckless infliction of emotional distress is covered; and finding of fraud and malice do not defeat coverage. Moreover, appellant contends that the other grounds set forth by FIC but not relied upon by the trial court, do not establish a basis for granting summary judgment: 1. The underlying action alleged and proved "bodily injury" damages covered by the policy. 2. Former husband Alvin Steffien is an insured under the FIC policy. 3. Coverage is not defeated by the "expected or intended injury" exclusion. 4. Appellant did not seek coverage for the underlying punitive damages award. 5. The bad faith claim cannot be summarily adjudicated because a jury could conclude that FIC acted unreasonably. 6. Appellant's claims for punitive damages was proper.

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[8] The minute order states in part: "Plaintiff failed to raise a triable issue of material fact as to the basis for the underlying lawsuit. Plaintiff failed to raise a triable issue of material fact as to the jury findings in the underlying action."

DISCUSSION

1. Standard of review.

"Because plaintiff appeals from an order granting defendants summary judgment, we must independently examine the record to determine whether triable issues of material fact exist. (Code Civ. Proc., § 437c, subd. (c); [citations]." (*Saelzler v. Advanced Group 400* (2001) 25 Cal.4th 763, 767.) "We construe the moving party's evidence strictly, and the nonmoving party's evidence liberally, in determining whether there is a triable issue. [Citation.] [¶] A defendant seeking summary judgment must show that at least one element of the plaintiff's cause of action cannot be established, or that there is a complete defense to the cause of action. (§ 437c, subd. (o)(2).) A defendant insurer, for example, may establish that the insured's loss is excluded from coverage. The burden then shifts to the plaintiff to show there is a triable issue of material fact on that issue. (See § 437c, subd. (o)(2); *Jambazian v. Borden* (1994) 25 Cal.App.4th 836, 843-844 [30 Cal.Rptr.2d 768].)" (*Alex R. Thomas & Co. v. Mutual Service Casualty Ins. Co.* (2002) 98 Cal.App.4th 66, 72.)

2. The trial court did not err in granting summary judgment.

Nelson does not dispute that the policy provides coverage for damages the insured becomes legally obligated to pay for "bodily injury or property damage to which this insurance applies *caused by an occurrence*" or that "occurrence" is defined as "*an accident*, including continuous or repeated exposure to substantially the same general harmful conditions." (Italics added.) Her opposition to the MSJ does not rely on any other policy provision further defining "occurrence" or "accident."

Rather, Nelson argues that the jury in the underlying case was presented with instructions on negligent and reckless infliction of emotional distress; that the underlying judgment was therefore not for intentional conduct; and the subject insurance policies therefore provided coverage for the insured's actions against her. First, we note that the instruction given, BAJI 12.70 stated as an element of the tort that "The defendant *intended to cause plaintiff to suffer emotional distress; or* the defendant engaged in the

conduct with reckless disregard of the probability of causing plaintiff to suffer emotional distress." (Italics added.) Thus, intentional conduct was possible under the instructions given even though she was "seeking damages based upon claims of the reckless infliction of emotional distress." The jury's special findings were that Steffien committed fraud and deceit and acted with malice against Nelson. Finally, the jury awarded punitive damages of $1 million. None of these circumstances is indicative of an "accident."

"Unless the term 'accident' is otherwise defined in the policy, it is given a commonsense interpretation: i.e., an 'unintentional, unexpected, chance occurrence.' (*Modern Development Co. v. Navigators Ins. Co.* (2003) 111 Cal.App.4th 932, 940, fn.4, quoting *St. Paul Fire & Marine Ins. Co. v. Sup.Ct. (County of Yuba)* (1984) 161 Cal.App.3d 1199, 1202.)

Nelson claims that Steffien was reckless in inflicting emotional distress on her and that his conduct falls within the definition of the term "accident" because he did not harbor the specific intent to injure. " '[U]nder California law, the term [accident] refers *to the nature of the insured's conduct, not his state of mind*.' [Citation.]" (*Quan v. Truck Ins. Exchange (*1998) 67 Cal.App.4th 583, 599.) As in *Quan*, *ibid*., plaintiff's " 'negligence' versus 'intentional tort' distinction misses the point. [] In this context (as opposed, perhaps, to the 'wilful acts' exclusion of Insurance Code section 533 . . .), whether the insured intended the harm that resulted from his conduct is not determinative. The question is whether an accident gave rise to claimant's injuries. No accident is alleged, nor do the extrinsic facts suggest one. The acts asserted to give rise to the underlying claimant's injuries were deliberate, regardless of whether any harm was intended or expected to come of them." (Fn. omitted; accord *Collin v. American Empire Ins. Co.* (1994) 21 Cal.App.4th 787, 810;[9] see also Croskey et al., Cal. Practice Guide:

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[9] As stated in *Collin v. American Empire Ins. Co.*, *supra*, 21 Cal.App.4th 787, 810-811: "California courts interpreting 'occurrence' have focused exclusively on the insured's intent to perform the act which gives rise to liability, not on the insured's state of mind. If the claimant's injuries did not result from an 'accident,' it does not matter

Insurance Litigation (The Rutter Group 2004) ¶ 7:45, pp. 7A14-15 ["term 'accident' refers to an unintended act, not an unintended injury. Coverage thus turns on the insured's intent to perform the act, not on his or her state of mind in performing it. Therefore, it is irrelevant whether the insured expected or intended the conduct to cause harm"].)[10]

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whether the insured expected or intended his conduct to cause any harm. [¶] The California Supreme Court has defined the term 'accident' as ' " 'an unexpected, unforeseen, or undesigned happening or consequence from either a known or unknown cause.' " ' (*Hogan v. Midland National Ins. Co.* (1970) 3 Cal.3d 553, 559 [91 Cal.Rptr. 153, 476 P.2d 825].) Put differently, it is 'something out of the usual course of events . . . which happens suddenly and unexpectedly and without design.' (*State Farm Fire & Casualty Co. v. Drasin* (1984) 152 Cal.App.3d 864, 867 [199 Cal.Rptr. 749].) . . . [¶] Because the term 'accident' refers to the insured's intent to commit the act giving rise to liability, as opposed to his or her intent to cause the consequences of that act, the courts have recognized -- virtually without exception -- that deliberate conduct is not an 'accident' or 'occurrence' irrespective of the insured's state of mind. The most comprehensive discussion of the term appeared in *Merced Mutual Ins. Co. v. Mendez* (1989) 213 Cal.App.3d 41, 50 [261 Cal.Rptr. 273], in which the court reiterated that conscious and deliberate actions of an insured are never an 'accident,' irrespective of whether the insured intends for harm to result from those actions: 'We reject appellants' argument that in construing the term "accident," chance or foreseeability should be applied to the resulting injury rather than to the acts causing the injury. In terms of fortuity and/or foreseeability, both "the *means* as well as the result must be unforeseen, involuntary, unexpected and unusual.". . . An accident, however, is never present when the insured performs a deliberate act unless some additional, unexpected, independent, and unforeseen happening occurs that produces the damage. . . . [W]here the insured intended all of the acts that resulted in the victim's injury, the event may not be deemed an "accident" merely because the insured did not intend to cause injury.' (Original italics, citations omitted.)" As noted in *McNabb v. Department of Motor Vehicles* (1993) 20 Cal.App.4th 832, 839, fn. 3, "this statement is subject to an exception, i.e., an accident occurs even though the insured's act was intentional where 'some additional, unexpected, independent, and unforeseen happening occurs that produces the damage.' (*Merced Mutual Ins. Co. v. Mendez* [(1989)] 213 Cal.App.3d [41] at p. 50.)" The exception was not applicable in *McNabb*, *supra*, 20 Cal.App.4th 832, or in the instant case.

[10] But see Division Six's opinion in *Interinsurance Exchange v. Flores* (1996) 45 Cal.App.4th 661, 669 [auto policy with definition of occurrence as in case at bench does

Certainly, Steffien's writing appellant Nelson's name on various legal documents without her consent or knowledge was no "accident." His conduct was intentional, whether or not he expected or intended the conduct to cause harm. There is no coverage under the subject policies without an "occurrence," and there was no "occurrence" as defined in the policies. Summary judgment was therefore properly granted.[11]

DISPOSITION

The summary judgment is affirmed. Appellant is to bear costs on appeal.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

COOPER, P.J.

We concur:

RUBIN, J.

BOLAND, J.

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not insure someone who drives his van to a location to allow his passenger to shoot someone from the van], by Justice Gilbert, stating in part: "When an injury is an unexpected or unintended consequence of the insured's conduct, it may be characterized as an accident for which coverage exists. When the injury suffered is *expected* or *intended*, coverage is denied. When one expects or intends an injury to occur, there is no 'accident.' (*Chu v. Canadian Indemnity Co.* (1990) 224 Cal.App.3d 86, 96 [274 Cal.Rptr. 20].)"

[11] Absent coverage, appellant's other causes of action against FIC fail.